



GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 “Regulatory Planning and Review.” This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government’s rulemaking Web site at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street, NW, 2nd Floor, Washington, DC 20405-0001, 202-501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the Federal Register and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR Web site at <http://www.acquisition.gov/far>.

Dated: September 8, 2021.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

DOD/GSA/NASA (FAR)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
410	Federal Acquisition Regulation (FAR); FAR Case 2021-016, Minimizing the Risk of Climate Change in Federal Acquisitions	9000–AO33

DOD/GSA/NASA (FAR)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
411	Federal Acquisition Regulation (FAR); FAR Case 2017-016, Controlled Unclassified Information (CUI)	9000–AN56
412	Federal Acquisition Regulation (FAR); FAR Case 2019-008, Small Business Program Amendments	9000–AN91
413	Federal Acquisition Regulation (FAR); FAR Case 2019-015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment	9000–AN98
414	Federal Acquisition Regulation (FAR); FAR Case 2020-005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts	9000–AO08
415	Federal Acquisition Regulation (FAR); FAR Case 2020-007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns	9000–AO10
416	Federal Acquisition Regulation (FAR); FAR Case 2020-008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer	9000–AO11
417	Federal Acquisition Regulation (FAR); FAR Case 2020-010, Small Business Innovation Research and Technology Transfer Programs	9000–AO12

418	Federal Acquisition Regulation (FAR); FAR Case 2020-013, Certification of Women-Owned Small Businesses	9000-AO17
419	Federal Acquisition Regulation (FAR); FAR Case 2020-016, Rerepresentation of Size and Socioeconomic Status	9000-AO18
420	Federal Acquisition Regulation (FAR); FAR Case 2021-001, Increased Efficiencies With Regard to Certified Mail, In-Person Business, Mail, Notarization, Original Documents, Seals, and Signatures	9000-AO19
421	FAR Acquisition Regulation (FAR); FAR Case 2021-005; Disclosure of Beneficial Owner in Federal Contracting	9000-AO23
422	Federal Acquisition Regulation (FAR); FAR Case 2021-006, Prohibition on Requiring Disclosure of Political Contributions	9000-AO24
423	Federal Acquisition Regulation (FAR); FAR Case 2021-009, Protests of Orders Set Aside for Small Business	9000-AO26
424	Federal Acquisition Regulations (FAR); FAR Case 2021-010, Subcontracting to Puerto Rican and Other Small Businesses	9000-AO27
425	Federal Acquisition Regulation (FAR); FAR Case 2021-011, Past Performance of First-Tier Subcontractors	9000-AO28
426	Federal Acquisition Regulation (FAR); FAR Case 2021-012, 8(a) Program	9000-AO29
427	Federal Acquisitions Regulation (FAR); FAR Case 2021-013, Access to Past Performance Information	9000-AO30
428	Federal Acquisition Regulation (FAR); FAR Case 2021-015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk	9000-AO32
429	Federal Acquisition Regulation (FAR); FAR Case 2021-017, Cyber Threat and Incident Reporting and Information Sharing	9000-AO34
430	Federal Acquisition Regulation (FAR); FAR Case 2021-019, Standardizing Cybersecurity Requirements for Unclassified Information Systems	9000-AO35
431	Federal Acquisition Regulations (FAR) FAR Case 2021-020, Limitations on Subcontracting	9000-AO36
432	Federal Acquisition Regulation (FAR); FAR Case 2021-021, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors	9000-AO37

DOD/GSA/NASA (FAR)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
433	Federal Acquisition Regulation: FAR Case 2016-005; Effective Communication Between Government and Industry	9000–AN29
434	FAR Acquisition Regulation (FAR); FAR Case 2015-038, Reverse Auction Guidance	9000–AN31
435	Federal Acquisition Regulation (FAR); FAR Case 2017-005, Whistleblower Protection for Contractor Employees	9000–AN32
436	Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States	9000–AN34
437	Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 to Encourage Vendor Feedback	9000–AN43
438	Federal Regulation Acquisition (FAR); FAR Case 2017-019, Policy on Joint Ventures	9000–AN59
439	Federal Acquisition Regulation (FAR); FAR Case 2018-020, Construction Contract Administration	9000–AN78
440	Federal Acquisition Regulation (FAR); FAR Case 2018-017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	9000–AN83
441	Federal Acquisition Regulation (FAR); FAR Case 2019-003, Substantial Bundling and Consolidation	9000–AN86
442	Federal Acquisition Regulation (FAR); FAR Case 2019-007, Update of Historically Underutilized Business Zone Program	9000–AN90
443	Federal Acquisition Regulation (FAR); FAR Case 2019-009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment	9000–AN92
444	Federal Acquisition Regulation (FAR); FAR Case 2020-011, Implementation of FASC Exclusion Orders	9000–AO13
445	Federal Acquisition Regulation (FAR); FAR Case 2021-003, Update to Certain Online References in the FAR	9000–AO21

446	Federal Acquisition Regulation (FAR); FAR Case 2021-008, Amendments to the FAR Buy American Act Requirements	9000–AO22
447	Federal Acquisition Regulation (FAR); FAR Case 2021-007, Maximum Award Price for Certain Sole Source Manufacturing Contracts	9000–AO25
448	Federal Acquisition Regulation (FAR); FAR Case 2021-014, Increasing the Minimum Wage for Contractors	9000–AO31

DOD/GSA/NASA (FAR)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
449	Federal Acquisition Regulation (FAR); FAR Case 2018-006; Definition of Subcontract	9000–AN66
450	Federal Acquisition Regulation (FAR); FAR Case 2018-012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions	9000–AN71
451	Federal Acquisition Regulation (FAR); FAR Case 2018-013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations	9000–AN72
452	Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition	9000–AN73

DOD/GSA/NASA (FAR)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
453	Federal Acquisition Regulation (FAR); FAR Case 2016-011, Revision of Limitations on Subcontracting	9000–AN35
454	Federal Acquisition Regulation (FAR); FAR Case 2017-013, Breaches of Personally Identifiable Information	9000–AN44
455	Federal Acquisition Regulation (FAR); FAR Case 2017-011, Section 508-Based Standards in Information and Communication Technology	9000–AN46
456	Federal Acquisition Regulation (FAR); FAR Case 2019-001, Analysis for Equipment Acquisitions	9000–AN84

457	Federal Acquisition Regulation (FAR); FAR Case 2019-004, Good Faith in Small Business Subcontracting	9000–AN87
458	Federal Acquisition Regulation (FAR); FAR Case 2020-004, Application of the MPT to Certain Task and Delivery Orders	9000–AO04
459	Federal Acquisition Regulation (FAR); FAR Case 2020-012, Scope of Review by Procurement Center Representatives	9000–AO16

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Prerule Stage

**410. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–016,
MINIMIZING THE RISK OF CLIMATE CHANGE IN FEDERAL ACQUISITIONS**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 5(b)(ii) of Executive Order 14030, Climate-Related Financial Risk. Section 5(b)(ii) directs the FAR Council to consider amending the FAR to ensure that major agency procurements minimize the risk of climate change and to require consideration of the social cost of greenhouse gas emissions in procurement decisions for major agency procurements.

Timetable:

Action	Date	FR Cite
ANPRM	10/15/21	86 FR 57404
ANPRM Comment Period End	12/14/21	
NPRM	05/00/22	
NPRM Comment Period End	07/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO33

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Proposed Rule Stage

**411. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–016,
CONTROLLED UNCLASSIFIED INFORMATION (CUI)**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010 as implemented in NARA’s implementing regulations at 32 CFR 2002, and implement the OMB Memorandum M-17-12, entitled Preparing for and Responding to a Breach of Personally Identifiable Information (PII). This rule will apply the CUI program requirements in Federal contracts in a uniform manner to protect CUI. This rule is one element of a larger strategy to improve the Government’s efforts to identify, deter, protect against, detect and respond to increasing sophisticated threat actions targeting Federal contractors.

Timetable:

Action	Date	FR Cite
NPRM	02/00/22	
NPRM Comment Period End	04/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN56

412. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–008, SMALL BUSINESS PROGRAM AMENDMENTS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size-status protests; and the grounds for socioeconomic status protests.

Timetable:

Action	Date	FR Cite
NPRM	11/00/21	
NPRM Comment Period End	01/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN91

413. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–015, IMPROVING CONSISTENCY BETWEEN PROCUREMENT & NON-PROCUREMENT PROCEDURES ON SUSPENSION AND DEBARMENT

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to bring the FAR and the Non-procurement Common Rule (NCR) procedures on suspension and debarment into closer alignment. The FAR covers procurement matters and the NCR covers other transactions, such as grants, cooperative agreements, contracts of assistance, loans and loan guarantees.

The Government uses suspension and debarment procedures to exercise business judgment. These procedures give Federal officials a discretionary means to exclude parties from participation in certain transactions, while affording those parties due process.

Timetable:

Action	Date	FR Cite
NPRM	06/00/22	
NPRM Comment Period End	08/00/22	

Regulatory Flexibility Analysis Required: Yes

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**414. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-005,
EXPLANATIONS TO UNSUCCESSFUL OFFERORS ON CERTAIN ORDERS UNDER
TASK AND DELIVERY ORDER CONTRACTS**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 874 of the NDAA for FY 2020. For awards of certain task or delivery orders, section 874 provides unsuccessful offerors the opportunity to request in writing an explanation as to why their offer was unsuccessful. Contracting offers are required to provide a brief explanation, including the rationale for award and an evaluation of the significant weak or deficient factors in the offeror's offer.

Timetable:

Action	Date	FR Cite
NPRM	04/00/22	
NPRM Comment Period End	06/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO08

**415. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-007,
ACCELERATED PAYMENTS APPLICABLE TO CONTRACTS WITH CERTAIN
SMALL BUSINESS CONCERNS**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to establish an accelerated payment date for small business contractors, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. For contractors that subcontract with small businesses, the proposed rule, to the fullest extent permitted by law, establishes an accelerated payment date, with a goal of 15 days after receipt of a proper invoice, if: (1) A specific payment date is not established by contract, and (2) the contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor. This change implements section 873 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92). Section 873 amends 31 U.S.C. 3903(a).

Timetable:

Action	Date	FR Cite
NPRM	09/29/21	86 FR 53923
NPRM Comment Period End	11/29/21	

Final Rule	07/00/22	
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Regulatory Flexibility Analysis Required: Yes

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**416. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-008,
PROHIBITION ON CRIMINAL HISTORY INQUIRIES BY CONTRACTORS PRIOR TO
CONDITIONAL OFFER**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1123 of the NDAA for FY 2020 (Pub. L. 116-92), which added at 41 U.S.C. 4714 and 10 U.S.C. 2339 prohibitions related to criminal history inquiries on individuals competing for or applying to work on Federal contracts. Per the statute, a contractor may not request criminal history record information on an applicant for a position related to work under a contract before the contractor has extended a conditional offer to the applicant for that position. In addition, the Federal Government may not request criminal history record information on an individual or sole proprietor who is competing on a Federal Government contract, unless that individual is the apparently successful offeror. This proposed rule implements the statutory prohibition and the associated procedures and exceptions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/21	
NPRM Comment Period End	02/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO11

417. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020–010, SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER PROGRAMS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement changes to the U.S. Small Business Administration (SBA) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directive issued (May 2, 2019). The proposed changes include updating FAR 27 to add reference to the STTR program, revise: definitions, allocation of rights, protection period, SBIR/STTR rights notice, data rights marking provisions, and add language to FAR 6.302-5(b) to acknowledge the unique competition requirements for SBIR/STTR Phase III contracts permitted by the Small Business Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/22	
NPRM Comment Period End	07/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO12

418. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020–013, CERTIFICATION OF WOMEN-OWNED SMALL BUSINESSES

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: The purpose of this FAR case is to implement the statutory requirement for certification of women-owned and economically disadvantaged women-owned small businesses participating in the Women-Owned Small Business Program (section 825 of the National Defense Authorization Act for Fiscal Year 2015), as implemented by the Small Business Administration in its final rule published May 11, 2020. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	10/07/21	86 FR 55769
NPRM Comment Period End	12/06/21	
Final Rule	06/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO17

419. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020–016, REREPRESENTATION OF SIZE AND SOCIOECONOMIC STATUS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement statutory requirements as implemented by the Small Business Administration’s final rule published October 16, 2020 (85 FR 66146), requiring contractors to rerepresent its size and economic status for all set-aside orders issued under full and open multiple-award contract. Additionally, rerepresentation is required for orders issued under a small business set-aside MAC where the orders are further set aside exclusively for a particular socioeconomic category and the required socioeconomic status differs from the underlying multiple-award contract. Orders issued under any FSS are exempt from the requirement to rerepresent size and or socioeconomic status.

Timetable:

Action	Date	FR Cite
NPRM	04/00/22	
NPRM Comment Period End	06/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO18

**420. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–001,
INCREASED EFFICIENCIES WITH REGARD TO CERTIFIED MAIL, IN–PERSON
BUSINESS, MAIL, NOTARIZATION, ORIGINAL DOCUMENTS, SEALS, AND
SIGNATURES**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to increase flexibilities and efficiencies regarding certified mail, in-person business, mail, notarization, original documents, seals, and signatures using digital and virtual technology. This would streamline certain essential contracting procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/22	
NPRM Comment Period End	09/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO19

421. FAR ACQUISITION REGULATION (FAR); FAR CASE 2021–005; DISCLOSURE OF BENEFICIAL OWNER IN FEDERAL CONTRACTING

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement sections 885 and 6403 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. Section 885 requires that the Federal Awardee Performance and Integrity Information System include identifying information on the beneficial owner of a Federal contractor that is a corporation. Paragraph (c) of section 6403 directs the FAR to be changed to require certain offerors to disclose beneficial ownership information in their offers for contracts over the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	06/00/22	
NPRM Comment Period End	08/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO23

422. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–006, PROHIBITION ON REQUIRING DISCLOSURE OF POLITICAL CONTRIBUTIONS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 735 of Division E of title VII of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) which prohibits the Government from recommending or requiring an offeror on a Federal contract to disclose as a condition of its offer any payments the offeror has made to a candidate for election for Federal office or to a political committee.

Timetable:

Action	Date	FR Cite
NPRM	05/00/22	
NPRM Comment Period End	07/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO24

423. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–009, PROTESTS OF ORDERS SET ASIDE FOR SMALL BUSINESS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the requirements in SBA's final rule issued on October 16, 2020 regarding size protests on set-aside orders under multiple-award contracts that were not set-aside; socioeconomic status protests on set-aside orders where the required status differs from that of the underlying multiple-award contract; and the authority for SBA's Associate General Counsel for Procurement Law to initiate size protest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/22	
NPRM Comment Period End	09/00/22	

Regulatory Flexibility Analysis Required: Yes

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424. • FEDERAL ACQUISITION REGULATIONS (FAR); FAR CASE 2021–010, SUBCONTRACTING TO PUERTO RICAN AND OTHER SMALL BUSINESSES

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 861 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), as implemented by the Small Business Administration's final rule published October 16, 2020 (85 FR 66146). Section 861 of the NDAA for FY 2019 provides contracting incentives to mentors that subcontract to protege firms that are Puerto Rican businesses. Specifically, a mentor that provides a subcontract to a protégé that has its principal office located in the Commonwealth of Puerto Rico may receive positive consideration for the mentor's past performance evaluation, and apply costs incurred for providing training to such protege toward the subcontracting goals contained in the subcontracting plan of the mentor. This FAR case also implements SBA's final rule which added clarifying language to recognize that prime contractors may rely on the self-certifications of their subcontractors provided they do not have a reason to doubt any specific self-certification. Lastly, this FAR case implements changes to SBA's regulations at 13 CFR 125.3(b)(2) which clarify that an Alaska Native Corporation (ANC) owned firm that does not individually qualify as small but counts as a small business or a small disadvantaged business for subcontracting goaling purposes under 43 U.S.C. 1626(e)(4)(B) is not currently required to submit a subcontracting plan. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/22	
NPRM Comment Period End	07/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO27

425. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–011, PAST PERFORMANCE OF FIRST-TIER SUBCONTRACTORS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the statutory requirements (15 U.S.C. 644(e)(4)(B)(i)) and (15 U.S.C. 644(q)(1)(B)) as implemented by the Small Business Administration’s final rule published October 16, 2020 (85 FR 66146). 15 U.S.C. 644(e)(4)(B)(i) requires contracting officers to consider the capabilities and past performance of first tier subcontractors for bundled or consolidated contracts, and 15 U.S.C. 644(q)(1)(B) requires contracting officers to consider the capabilities and past performance of first tier subcontractors for multiple award contracts valued above the substantial bundling threshold of the Federal agency. SBA’s final rule also gives contracting officers discretion to consider past performance and experience of first-tier subcontractors for other procurements as appropriate where the first-tier subcontractors are specifically identified in the proposal, and the capabilities and past performance of the small business prime do not independently demonstrate capabilities and past performance necessary for award.

Timetable:

Action	Date	FR Cite
NPRM	07/00/22	
NPRM Comment Period End	09/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO28

426. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–012, 8(A) PROGRAM

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the SBA, in its final rule published in the Federal Register on October 16, 2020, to the 8(a) Business Development Program to eliminate or reduce unnecessary or excessive burdens on 8(a) Participants. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	03/00/22	
NPRM Comment Period End	05/00/22	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000–AO29

427. • FEDERAL ACQUISITIONS REGULATION (FAR); FAR CASE 2021–013, ACCESS TO PAST PERFORMANCE INFORMATION

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify language at FAR 42.1503(d) regarding restrictions on the release of past performance information in the Contractor Performance Assessment Reporting System (CPARS) to other than Government personnel to perform value added services to the Government. Artificial intelligence (e.g., machine learning) may improve the workforce's ability to

leverage the use of contractor performance information in informing future contract award decisions and other related efforts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/22	
NPRM Comment Period End	06/00/22	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405

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RIN: 9000-AO30

428. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-015, DISCLOSURE OF GREENHOUSE GAS EMISSIONS AND CLIMATE-RELATED FINANCIAL RISK

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 5(b)(i) of Executive Order 14030, Climate-Related Financial Risk. Section 5(b)(i) directs the FAR Council to consider amending the FAR to require major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets.

Timetable:

Action	Date	FR Cite
NPRM	03/00/22	
NPRM Comment Period End	05/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO32

429. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–017, CYBER THREAT AND INCIDENT REPORTING AND INFORMATION SHARING

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to increase the sharing of information about cyber threats and incident information between the Government and certain providers, pursuant to OMB recommendations, in accordance with section 2 (b)-(c), and Department of Homeland Security recommendations, in accordance with section 8(b), of Executive Order 14028, Improving the Nation’s Cybersecurity. In addition, requires certain contractors to report cyber incidents to the Federal Government to facilitate effective cyber incident response and remediation, pursuant to Department of Homeland Security recommendations in accordance with sections 2(g)(i) of Executive Order 14028.

Timetable:

Action	Date	FR Cite
NPRM	02/00/22	
NPRM Comment Period End	04/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO34

430. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–019, STANDARDIZING CYBERSECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION SYSTEMS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to standardize common cybersecurity contractual requirements across Federal agencies for unclassified information systems, pursuant to Department of Homeland Security recommendations in accordance with sections 2(i) and 8(b) of Executive Order 14028, Improving the Nation's Cybersecurity.

Timetable:

Action	Date	FR Cite
NPRM	02/00/22	
NPRM Comment Period End	04/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO35

431. • FEDERAL ACQUISITION REGULATIONS (FAR) FAR CASE 2021-020, LIMITATIONS ON SUBCONTRACTING

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Small Business Administration (SBA) changes to the limitations on subcontracting in SBA's final rules published on November 29, 2019, and October 16, 2020, which implemented sections of the National Defense Authorization Acts (NDAA) for fiscal years 2016 and 2017, and the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act). Generally this rule will clarify matters related to the limitations on subcontracting for small businesses. Changes will be made in areas such as: exclusions of other direct costs from the limitations on subcontracting for services; similarly situated entities and the treatment of independent contractors; applicability of the Nonmanufacturer rule to 541519 when using the Information Technology Value Added Reseller (ITVAR) exception; the multiple item rule; mixed contracts; and CO discretion to ask for compliance information.

Timetable:

Action	Date	FR Cite
NPRM	08/00/22	
NPRM Comment Period End	10/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO36

432. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–021, ENSURING ADEQUATE COVID–19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021. The Executive Order requires a clause to be included in certain contracts to ensure contractors are adequately protected from COVID-19 by requiring certain contractor and subcontractor compliance with all guidance for contractor and subcontractor workplace locations published by the Safer Federal Workforce Task Force. The rule will promote economy and efficiency in procurement by contracting with sources that provide adequate safeguards to their workers which will decrease worker absence, reduce labor costs and therefore, improve contractor and subcontractor performance on Federal procurements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/22	
NPRM Comment Period End	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Final Rule Stage

**433. FEDERAL ACQUISITION REGULATION: FAR CASE 2016-005; EFFECTIVE
COMMUNICATION BETWEEN GOVERNMENT AND INDUSTRY**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 887 of the NDAA for FY 2016 (Pub. L. 114-92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations and promote a fair competitive environment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/16	81 FR 85914
NPRM Comment Period End	03/02/17	
Final Rule	06/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN29

434. FAR ACQUISITION REGULATION (FAR); FAR CASE 2015–038, REVERSE AUCTION GUIDANCE

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy (OFPP) memorandum, "Effective Use of Reverse Auctions," which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO-14-108). Reverse auctions are one tool used by Federal agencies to increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies' use of reverse auctions to help agencies maximize competition and savings when using reverse auctions.

Timetable:

Action	Date	FR Cite
NPRM	12/07/20	85 FR 78815
NPRM Comment Period End	02/05/21	
Final Rule	06/00/22	

Regulatory Flexibility Analysis Required: Yes

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**435. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–005,
WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, "Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information," and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act (NDAA) for fiscal year (FY) 2013. The rule clarifies that contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing to any of the entities such as agency Inspector Generals and Congress information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees by making permanent the protection for disclosure of the aforementioned information and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/26/18	83 FR 66223
NPRM Comment Period End	02/25/19	
Final Rule	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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436. FEDERAL ACQUISITION REGULATION; FAR CASE 2016–002, APPLICABILITY OF SMALL BUSINESS REGULATIONS OUTSIDE THE UNITED STATES

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to support SBA's policy of including overseas contracts in agency small business contracting goals. SBA revised its regulation at 13 CFR 125.2, as finalized in its rule "Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation" issued on October 2, 2013, to clarify that overseas contracting is not excluded from agency responsibilities to foster small business participation.

In its final rule, SBA has clarified that, as a general matter, its small business contracting regulations apply regardless of the place of performance. In light of these changes, there is a need to amend the FAR, both to support the changes to SBA's regulation, and to give agencies the tools they need, especially the ability to use set-asides to maximize opportunities for small businesses overseas.

Timetable:

Action	Date	FR Cite
NPRM	08/12/19	84 FR 39793
NPRM Comment Period End	10/11/19	
Final Rule	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN34

437. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–014, USE OF ACQUISITION 360 TO ENCOURAGE VENDOR FEEDBACK

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule will create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies will be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences of the pre-award process.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/18	83 FR 34820
ANPRM Comment Period End	09/21/18	
NPRM	09/15/20	85 FR 57177
NPRM Comment Period End	11/16/20	
Final Rule	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN43

438. FEDERAL REGULATION ACQUISITION (FAR); FAR CASE 2017–019, POLICY ON JOINT VENTURES

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

Timetable:

Action	Date	FR Cite
NPRM	06/05/20	85 FR 34561
NPRM Comment Period End	08/04/20	
Final Rule	02/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN59

439. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–020, CONSTRUCTION CONTRACT ADMINISTRATION

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 855 of the NDAA for FY 2019 (Pub. L. 115-232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying

with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.

Timetable:

Action	Date	FR Cite
NPRM	04/01/20	85 FR 18181
NPRM Comment Period End	06/01/20	
Final Rule	04/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN78

440. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–017, PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement section 889 (a)(1)(A) of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Section 889(a)(1)(A) prohibits the Government from procuring covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. Provisions have been added to the FAR which require that an offeror represent at an entity level in SAM, and if applicable on an offer-by-offer basis, if the offeror will or will not provide any covered telecommunications equipment or services to the Government. If an offeror responds in an offer that it will provide covered telecommunications, the offeror will need to provide additional disclosures. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/19	84 FR 40216
Interim Final Rule Comment Period End	10/15/19	
Interim Final Rule	12/13/19	84 FR 68314
Interim Final Rule Effective	12/13/19	
Interim Final Rule Comment Period End	02/11/20	
Final Rule	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN83

**441. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–003,
SUBSTANTIAL BUNDLING AND CONSOLIDATION**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 863 of the National Defense Authorization Acts (NDAA) for FY 2016 and the Small Business Administration (SBA) implementing regulations requiring public notification of an agency's determination to substantially bundle or consolidate contract requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/27/20	85 FR 23299
NPRM Comment Period End	06/26/20	
Final Rule	11/04/21	86 FR 61038

Final Rule Effective	12/06/21	
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Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN86

442. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–007, UPDATE OF HISTORICALLY UNDERUTILIZED BUSINESS ZONE PROGRAM

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement regulatory changes issued in a final rule on November 26, 2019, by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	06/14/21	86 FR 31468
NPRM Comment Period End	08/13/21	
Final Rule	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN90

**443. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–009,
PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN
TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Beginning two years from the enacted date, paragraph (a)(1)(B) of section 889 prohibits the Government from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services. Paragraph (a)(1)(A) of section 889 is being implemented separately through FAR Case 2018-017.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/20	85 FR 42665
Interim Final Rule Effective	08/13/20	
Interim Final Rule	08/27/20	85 FR 53126
Interim Final Rule Comment Period End	09/14/20	
Interim Final Rule Comment Period End	10/26/20	
Interim Final Rule Effective	10/26/20	
Final Rule	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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444. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020–011, IMPLEMENTATION OF FASC EXCLUSION ORDERS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: This rule will amend the Federal Acquisition Regulation (FAR) to address implementation of issued exclusion orders authorized by section 202 of the SECURE Technology Act (115 Pub. L. 390), which amends 41 U.S.C. 1323 by creating the Federal Acquisition Security Council (FASC) and authorizing the Secretary of Homeland Security, the Secretary of Defense, and the Director of National Intelligence to issue exclusion orders, upon the recommendation of the FASC. These orders are issued to protect national security by excluding certain covered products, services, or sources from the Federal supply chain.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/22	
Interim Final Rule Comment Period End	04/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO13

445. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–003, UPDATE TO CERTAIN ONLINE REFERENCES IN THE FAR

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to replace FAR references to Federal Business Opportunities (FBO.gov) and Wage Determinations Online (WDOL.gov) with the System for Award Management (SAM.gov), because of their integration with and increased functionality of SAM.gov.

Timetable:

Action	Date	FR Cite
Final Rule	11/00/21	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO21

**446. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-008,
AMENDMENTS TO THE FAR BUY AMERICAN ACT REQUIREMENTS**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 8 of Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers. Section 8 requires the Federal Acquisition Regulatory Council to strengthen the impact of the Buy American Act. In pursuit of the goals of section 8, the proposed rule would provide for 1) an increase to the domestic content threshold, a schedule for future increases, and a fallback threshold that would allow for products meeting a specific lower domestic content threshold to qualify as domestic products under certain circumstances; 2) a framework for application of an enhanced price preference for a domestic product that is considered a critical product or made up of critical components; and 3) a postaward domestic content reporting requirement for contractors.

Timetable:

Action	Date	FR Cite
NPRM	07/30/21	86 FR 40980
NPRM Comment Period End	09/28/21	
Final Rule	02/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO22

**447. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–007,
MAXIMUM AWARD PRICE FOR CERTAIN SOLE SOURCE MANUFACTURING
CONTRACTS**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 864 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. Section 864 amends the Small Business Act by modifying the maximum award price for sole source manufacturing contracts to \$7 million for the 8(a), Women-Owned Small Business (WOSB), Historically Underutilized Business Zone (HUBZone), and Service-Disabled Veteran-Owned Small Business (SDVOSB) programs. This rule will change the current FAR thresholds for the 8(a) and HUBZone programs from \$7.5 million to the statutory threshold of \$7 million. The thresholds for the WOSB and SDVOSB programs will remain unchanged at the current FAR \$7 million threshold.

Timetable:

Action	Date	FR Cite
Final Rule	11/04/21	86 FR 61040
Final Rule Effective	12/06/21	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO25

**448. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021–014,
INCREASING THE MINIMUM WAGE FOR CONTRACTORS**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will amend the Federal Acquisition Regulation (FAR) to implement Executive Order 14026, Increasing the Minimum Wage for Federal Contractors, dated April 27, 2021, and Department of Labor regulations (29 CFR part 23). The Executive order seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to \$15.00 the hourly minimum wage paid to those contractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/22	
Interim Final Rule Comment Period End	03/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AO31

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Long-Term Actions

**449. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–006;
DEFINITION OF SUBCONTRACT**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 820 of the National Defense Authorization Act (NDAA) for FY 2018.

Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" for the procurement of commercial items to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

Timetable:

Action	Date	FR Cite
NPRM	12/00/22	
NPRM Comment Period End	02/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN66

450. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-012, RIGHTS TO FEDERALLY FUNDED INVENTIONS AND LICENSING OF GOVERNMENT-OWNED INVENTIONS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement the changes to 37 CFR parts 401 and 404, "Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions," dated May 14, 2018. The changes reduce regulatory burdens on the public, but increase burdens on the Government, provide greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provide greater clarity to all Federal funding recipients by updating regulatory provisions to align with provisions of the Leahy-Smith America Invents Act in terms of definitions and timeframes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/22	

NPRM Comment Period End	01/00/23	
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Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN71

451. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-013, EXEMPTION OF COMMERCIAL AND COTS ITEM CONTRACTS FROM CERTAIN LAWS AND REGULATIONS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 839 of the John S. McCain National Defense Authorization Act for fiscal year 2019 which requires the FAR Council to review each past determination made not to exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempt under 41 U.S.C. 1906(d) or 41 U.S.C. 1907(b). A new determination is to be made whether to provide exemptions from those certain laws and if so, propose revisions to the FAR to reflect those exemptions. The law also requires the FAR Council to review the FAR to assess every regulation not based on law or Executive order that requires a specific clause in contracts for commercial products or commercial service and propose to eliminate those regulations unless the FAR Council makes a new determination not to do so. It also requires an assessment of every regulation that requires a prime contractor to include a specific clause in subcontracts for commercially available off-the-shelf items, unless the clause is required by law or Executive order. Paragraph (c) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council decides not to do so.

Timetable:

Action	Date	FR Cite
NPRM	11/00/22	

NPRM Comment Period End	01/00/23	
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Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN72

452. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018–014, INCREASING TASK–ORDER LEVEL COMPETITION

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 876 of the John S. McCain National Defense Authorization Act for fiscal year 2019, which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to IDIQ contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

Timetable:

Action	Date	FR Cite
NPRM	12/00/22	
NPRM Comment Period End	02/00/23	

Regulatory Flexibility Analysis Required: Yes

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DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Completed Actions

**453. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2016-011,
REVISION OF LIMITATIONS ON SUBCONTRACTING**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to revise and standardize the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. This rule incorporates the Small Business Administration's (SBA) final rule that implemented the statutory requirements of section 1651 of the National Defense Authorization Act (NDAA) for fiscal year 2013. This action is necessary to meet the Congressional intent of clarifying the limitations on subcontracting with which small businesses must comply, as well as the ways in which they can comply. The rule will benefit both small businesses and Federal agencies. The rule will allow small businesses to take advantage of subcontracts with similarly situated entities. As a result, these small businesses will be able to compete for larger contracts, which would positively affect their potential for growth as well as that of their potential subcontractors.

Completed:

Reason	Date	FR Cite
Final Rule	08/11/21	86 FR 44233
Final Rule Effective	09/10/21	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN35

**454. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–013,
BREACHES OF PERSONALLY IDENTIFIABLE INFORMATION**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are withdrawing this rule. The requirements of this case have been added into FAR case 2017-016, Controlled Unclassified Information.

Completed:

Reason	Date	FR Cite
Withdrawn	10/20/21	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN44

**455. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017–011, SECTION
508–BASED STANDARDS IN INFORMATION AND COMMUNICATION
TECHNOLOGY**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to incorporate recent revisions and updates to accessibility standards issued by the U.S. Access Board pursuant to section 508 of the Rehabilitation Act of 1973. This FAR change incorporates the U.S. Access Board’s final rule, "Information and Communication Technology (ICT) Standards and Guidelines," which published on January 18, 2017. This rule updates the FAR to ensure that the updated accessibility standards are appropriately considered in Federal ICT acquisitions.

Completed:

Reason	Date	FR Cite
Final Rule	08/11/21	86 FR 44229
Final Rule Effective	09/10/21	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN46

456. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–001, ANALYSIS FOR EQUIPMENT ACQUISITIONS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the FAR by implementing section 555 of the Federal Aviation Administration (FAA) Reauthorization Act for FY 2018 (Pub. L. 115-254), which requires equipment to be acquired using the method of acquisition most advantageous to the Government based on a case-by-case analysis of costs and other factors. Section 555 requires the methods of acquisition to be compared in the analysis to include, at a minimum: (1) purchase; (2) long-term lease or rental; (3) short-term lease or rental; (4) interagency acquisition; or, (5) acquisition agreements with a State or local government. Section 555 exempts certain acquisitions from this required analysis.

Completed:

Reason	Date	FR Cite
Final Rule	06/10/21	86 FR 31070
Final Rule Effective	07/12/21	

Regulatory Flexibility Analysis Required: Yes

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457. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019–004, GOOD FAITH IN SMALL BUSINESS SUBCONTRACTING

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 1821 of the National Defense Authorization Act (NDAA) for FY 2017 and the Small Business Administration regulatory changes relating to small business subcontracting plans. Per section 1821, the final rule provides examples of activities that would be considered a failure to make a good faith effort to comply with a small business subcontracting plan. The rule also requires prime contractors with commercial subcontracting plans to include indirect costs, with some exceptions, in their subcontracting plan goals.

Completed:

Reason	Date	FR Cite
Final Rule	08/11/21	86 FR 44249
Final Rule Effective	09/10/21	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000–AN87

458. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020–004, APPLICATION OF THE MPT TO CERTAIN TASK AND DELIVERY ORDERS

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the FAR by implementing section 826 of the NDAA for FY 2020 (Pub. L. 116-92) which increases the threshold for requiring fair opportunity on orders under multiple-award contracts from \$3,500 to the micro-purchase threshold, unless an exception applies. This change applies the word-based threshold to ensure continued alignment with any future changes to the thresholds.

Completed:

Reason	Date	FR Cite
Final Rule	06/10/21	86 FR 31073
Final Rule Effective	07/12/21	

Regulatory Flexibility Analysis Required: Yes**Agency Contact:** Michael O. Jackson

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RIN: 9000–AO04

459. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020–012, SCOPE OF REVIEW BY PROCUREMENT CENTER REPRESENTATIVES**Legal Authority:** 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: The purpose of this FAR case is to implement section 1811 of the National Defense Authorization Act for Fiscal Year 2017 (15 U.S.C. 644(l)(9)(A)), as implemented by the Small Business Administration's final rule published November 29, 2019 (84 FR 65647). 15 U.S.C. 644(l)(9)(A) allows procurement center representatives to review solicitations without regard to whether the contract or order is set aside for small business, or reserved in the case of a multiple-award contract, or whether the solicitation would result in a bundled or consolidated contract or order.

Completed:

Reason	Date	FR Cite
Final Rule	08/11/21	86 FR 44247
Final Rule Effective	09/10/21	

Regulatory Flexibility Analysis Required: Yes**Agency Contact:** Malissa Jones

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RIN: 9000–AO16

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